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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ZACHARY BASSETT,

MASON WARR, and

COS ACCOUNTING & TAX LLC,
dba 1099 Tax Pros,

Defendants.

INDICTMENT

Count 1: 18 U.S.C. § 371 (Conspiracy
to Defraud the United States)

Counts 2-14: 18 U.S.C. § 1343 (Wire
Fraud)

Counts 15-25: 26 U.S.C. § 7206(2)
(Aiding and Assisting in Filing False
Tax Returns)

Case: 2:23-cr-00039
Assigned To : Nielson, Howard C., Jr
Assign. Date : 1/31/2023

The Grand Jury Charges:

Background

At all times relevant to this Indictment:

1. ZACHARY BASSETT is the co-founder, Chief Financial Officer, and Senior Tax Manager of COS ACCOUNTING & TAX LLC, currently doing business as 1099 Tax Pros (hereinafter, "COS ACCOUNTING"). BASSETT resides in the state of Utah.

2. MASON WARR is the co-founder and Chief Executive Officer of COS ACCOUNTING. WARR resides in the state of Utah.

3. COS ACCOUNTING is a Utah domestic limited liability company, with an incorporation date of August 16, 2019, that is doing business in the state of Utah.

4. The Internal Revenue Service (IRS) is an agency of the United States Department of the Treasury responsible for administering the tax laws of the United States and collecting taxes owed to the United States.

**CARES Act, Employee Retention Credit and
Families First Coronavirus Response Act**

5. The Coronavirus Aid, Relief, and Economic Security Act (CARES Act), enacted on March 27, 2020, provides for an employee retention tax credit (Employee Retention Credit or “ERC”), designed to encourage businesses to keep employees on their payroll. Subsequent legislation (The Taxpayer Certainty and Disaster Tax Relief Act of 2020 and the American Rescue Plan Act) modified and extended the ERC.

6. The ERC is a refundable tax credit against certain employment taxes equal to 50% of the qualified wages an eligible employer pays to employees after March 12, 2020, and through December 2020. For 2021, the ERC is a refundable tax credit against certain employment taxes equal to 70% of the qualified wages an eligible employer pays to employees after December 31, 2020 and through September 2021.

7. For purposes of the ERC, an eligible employer is a business with operations that have been partially or fully suspended due to governmental orders due to COVID-19,

or a business that has a 50% decline in gross receipts as compared to the same quarter in 2019.

8. For each employee, wages (including certain health plan costs) up to \$10,000 can be counted to determine the amount of the ERC per calendar quarter. The ERC is capped at \$5,000 per employee retained between March 13, 2020 and December 31, 2020, and up to \$7,000 per employee per quarter retained between January 1, 2021 and September 30, 2021.

9. Qualified employers can get access to the ERC by reducing upcoming payroll tax deposits or requesting an advance credit (i.e., a direct refund payment to the employer) on a Form 7200 or a Form 941.

10. The Families First Coronavirus Response Act (FFCRA) requires certain employers to provide employees with paid sick leave (sick leave) of up to 80 hours and expanded family and medical leave (family leave) of up to 10 weeks for specified reasons related to COVID-19. FFCRA provides refundable tax credits that reimburse employers for the cost of providing paid sick and family leave wages to employees for leave related to COVID-19.

11. Together the ERC and sick and family leave wages credit are referred to herein as the COVID-related tax credits.

12. Self-employed individuals are not eligible for the ERC or sick and family leave credits under the FFCRA.

13. Form 7200 (Advance Payment of Employer Credits Due to COVID-19) is a newly created tax form used by employers to request an advance payment of the COVID-

related tax credits. The Form 941 (Employer's Quarterly Federal Tax Return) may also be used to claim the COVID-related tax credits. The COVID-related tax credits may be greater than the tax owed by the employer, resulting in a refund to the employer.

The Scheme to Defraud

14. From at least April 2020 through at least August 2021, within the District of Utah and elsewhere, BASSETT, WARR, COS ACCOUNTING, and other individuals not named herein but whose identities are known and unknown to the Grand Jury, alone and in combination, prepared and presented to the IRS certain tax forms (Forms 7200 and Forms 941) claiming certain tax credits – namely, the ERC and sick and family leave credits, on behalf of clients of COS ACCOUNTING. The Forms 7200 and Forms 941 were false and fraudulent as to a material matter in that the forms falsely or fraudulently represented the number of employees to claim additional ERC; falsely or fraudulently represented the company's eligibility for the ERC; falsely or fraudulently represented payroll to claim the ERC; and/or falsely or fraudulently represented sick and family leave wages to receive additional tax credits.

15. It was part of the scheme that COS ACCOUNTING charged a fee for the preparation and presentation to the IRS of the Forms 7200 and 941 by the participants in the scheme, with such fee being greater if greater COVID-related tax credits were claimed.

16. It was part of the scheme that participants in the scheme, in order to enrich COS ACCOUNTING, themselves, and others, aided and assisted in the filing of false or fraudulent Forms 7200 and Forms 941, which claimed COVID-related tax credits to which the employers were not entitled to receive. The false or fraudulent claims for COVID-

related tax credits often resulted in a refund to the employer.

17. In total, participants in the scheme prepared and submitted more than one thousand Forms 7200 and Forms 941 to the IRS, claiming in excess of \$11,000,000 in ERC and sick and family leave wage credits for clients of COS ACCOUNTING.

COUNT 1
18 U.S.C. § 371
(Conspiracy to Defraud the United States)

18. The factual allegations contained in paragraphs 1 – 17 of this Indictment are realleged and incorporated as if fully set forth herein.

19. Beginning on or about April 2020 and continuing through August 2021, within the District of Utah and elsewhere,

ZACHARY BASSETT,
MASON WARR, and
COS ACCOUNTING & TAX LLC, dba 1099 Tax Pros

defendants herein, and other individuals not named herein whose identities are known and unknown to the Grand Jury, did knowingly and intentionally conspire, combine, confederate and agree together and with each other to defraud the United States by impeding, impairing, obstructing and defeating the lawful government functions of the IRS in the ascertainment, computation, assessment and collection of federal taxes.

Object of the Conspiracy

20. It was the purpose and object of the conspiracy for the defendants and their co-conspirators to unlawfully, knowingly, and intentionally defraud the United States of America and an agency thereof, that is, the Internal Revenue Service of the Department of Treasury, by impeding, impairing, defeating, and obstructing the lawful government

functions of the IRS in the ascertainment, computation, assessment, and collection of federal taxes, through the preparation and presentation of false or fraudulent claims for COVID-related tax credits.

Manner and Means

21. The manner and means by which the defendants and their co-conspirators, alone and in combination, sought to accomplish the objects and purpose of the conspiracy included, among other things, the following:

22. It was part of the conspiracy that defendants and employees of COS ACCOUNTING actively solicited single-member LLCs to apply for the COVID-related tax credits, including the ERC and sick and family leave wages.

23. It was further part of the conspiracy that defendants and employees of COS ACCOUNTING actively solicited independent contractors involved in door-to-door sales, rideshare drivers, sole proprietors, and other Form 1099 workers to convert their “businesses” into LLCs, taxed as an S Corporation. Defendants and employees of COS ACCOUNTING advertised that a benefit of this type of LLC is to allow the independent contractors to qualify for the COVID-related tax credits, including the ERC and sick and family leave wage credits.

24. It was further part of the conspiracy that single-member LLCs that agreed to use the services of COS ACCOUNTING to seek the ERC had claims¹ for the ERC submitted by defendants and employees of COS ACCOUNTING regardless of whether the LLC was statutorily eligible to receive the ERC, resulting in claims for the ERC that were

false or fraudulent.

25. It was further part of the conspiracy that, when preparing Forms 7200 and Forms 941 to seek the ERC, defendants and employees of COS ACCOUNTING routinely claimed the maximum allowable wage for each employee, regardless of whether or not such wage was paid to the employee, resulting in claims for the ERC that were false or fraudulent.

26. It was further part of the conspiracy that, when preparing Forms 7200 and Forms 941 to seek the ERC, defendants and employees of COS ACCOUNTING routinely listed the spouse of married owners of the single-member LLCs as an additional employee of the business to increase the amount of the ERC, regardless of whether or not the spouse was an actual employee of the LLC, resulting in claims for the ERC that were false or fraudulent.

27. It was further part of the conspiracy that, when preparing Forms 7200 and Forms 941 for COVID-related sick and family leave credits, defendants and employees of COS ACCOUNTING claimed sick and/or family leave wages regardless of whether or not the LLC paid such wages, resulting in claims for these COVID-related sick or family leave credits that were false or fraudulent.

28. It was further part of the conspiracy that, when preparing Forms 7200 and Forms 941 for COVID-related sick and family leave credits, defendants and employees of COS ACCOUNTING claimed sick and/or family leave wages regardless of whether or not a legitimate employee of the LLC had a qualifying sick and/or family leave event under the FFCRA, resulting in claims for these COVID-related sick or family leave credits that

were false or fraudulent.

29. It was further part of the conspiracy that defendants and employees of COS ACCOUNTING trained other employees of COS ACCOUNTING how to solicit clients to retain the services of COS ACCOUNTING to aid and assist in preparing the Forms 7200 and Forms 941 to seek the COVID-related tax credits, and what information to gather from clients for the purposes of preparing the tax forms.

30. It was further part of the conspiracy that defendants and employees of COS ACCOUNTING trained other employees of COS ACCOUNTING how to prepare the Forms 7200 and Forms 941 to include the false or fraudulent information on the forms to increase the amount of COVID-related credits claimed by COS ACCOUNTING on behalf of the employer.

31. It was further part of the conspiracy that, without the prior knowledge or approval of the client, defendants and employees of COS ACCOUNTING signed the client's name on some of the Forms 7200 that were submitted by COS ACCOUNTING to the IRS seeking COVID-related tax credits for the client.

32. It was further part of the conspiracy that COS ACCOUNTING charged a fee to each client for preparing and filing the Forms 7200 and Forms 941 seeking COVID-related tax credits. COS ACCOUNTING charged a higher fee when an owner of a single-member LLC was married and/or when credits were claimed for sick and family leave wages.

Overt Acts of the Conspiracy

33. The factual allegations contained in paragraphs 1 – 32 of this Indictment are realleged and incorporated as if fully set forth herein.

34. On or about the dates listed below, within the District of Utah and elsewhere, BASSETT, WARR, COS ACCOUNTING, and other individuals not named herein whose identities are known and unknown to the Grand Jury, committed and caused to be committed overt acts, among others, in furtherance of the conspiracy, by causing the filing of false or fraudulent Forms 7200 and 941 for the following taxpayers:

OVERT ACT	TAXPAYER	APPROX. DATE OF FILING	FORM	ERC CLAIMED	SICK LEAVE CLAIMED	FAMILY LEAVE CLAIMED	FALSE ITEM(S)
A	T.J.E. LLC	4/24/2020	7200	\$10,000	\$0	\$0	Number of Employees, Wages Paid, Signature
B	T.J.E. LLC	6/29/2020	7200	\$10,000	\$3,620	\$7,102	Number of Employees, Wages Paid, Sick Leave Wages, Family Leave Wages, Signature
C	T.J.E. LLC	7/21/2020	941	\$10,000	\$3,568	\$6,000	Number of Employees, Wages Paid, Sick Leave Wages, Family Leave Wages
D	D.L. LLC	9/21/2020	7200	\$10,000	\$0	\$0	Number of Employees, Wages Paid
E	J. LLC	8/18/2020	941	\$10,000	\$3,200	\$0	Number of Employees, Wages Paid, Sick Leave Wages
F	A.L.E. LLC	4/24/2020	7200	\$10,000	\$0	\$0	Number of Employees, Wages Paid
G	A.L.E. LLC	6/29/2020	7200	\$10,000	\$3,620	\$7,102	Number of Employees, Wages Paid, Sick Leave

							Wages, Family Leave Wages, Signature
H	A.L.E. LLC	8/24/2020	941	\$10,000	\$3,568	\$6,000	Number of Employees, Wages Paid, Sick Leave Wages, Family Leave Wages
I	A.L.E. LLC	10/28/2020	941	\$0	\$0	\$4,000	Number of Employees, Family Leave Wages
J	M.U.U. LLC	4/20/2020	7200	\$10,000	\$0	\$0	Number of Employees, Wages Paid, Signature
K	M.U.U. LLC	6/29/2020	7200	\$10,000	\$3,620	\$6,087	Number of Employees, Wages Paid, Sick Leave Wages, Family Leave Wages, Signature
L	M.U.U. LLC	8/14/2020	941	\$10,000	\$3,568	\$6,000	Number of Employees, Wages Paid, Sick Leave Wages, Family Leave Wages
M	B.R.E.G. LLC	4/28/2020	7200	\$10,000	\$0	\$0	Number of Employees, Wages Paid, Signature
N	B.R.E.G. LLC	6/29/2020	7200	\$10,000	\$3,620	\$7,102	Number of Employees, Wages Paid, Sick Leave Wages, Family Leave Wages, Signature
O	B.R.E.G. LLC	8/24/2020	941	\$10,000	\$3,200	\$0	Number of Employees, Wages Paid, Sick Leave Wages
P	S. LLC	5/7/2021	941	\$10,000	\$3,200	\$2,800	Number of Employees, Wages Paid, Sick Leave Wages, Family Leave Wages
Q	J. LLC	2/1/2021	941	\$5,000	\$0	\$0	Wages Paid
R	C.G. LLC	4/13/2020	7200	\$10,000	\$0	\$0	Number of Employees, Wages Paid, Signature
S	C.G. LLC	5/4/2020	7200	\$10,000	\$3,620	\$0	Number of Employees, Wages

							Paid, Sick Leave Wages, Signature
T	C.G. LLC	8/26/2020	941	\$10,000	\$3,200	\$0	Number of Employees, Wages Paid, Sick Leave Wages
U	C.G. LLC	10/28/2020	941	\$0	\$0	\$8,000	Number of Employees, Wages Paid, Family Leave Wages
V	C.M.P. LLC	4/24/2020	7200	\$10,000	\$0	\$0	Number of Employees, Wages Paid
W	C.M.P. LLC	5/4/2020	7200	\$10,000	\$3,246	\$0	Number of Employees, Wages Paid, Sick Leave Wages
X	C.M.P. LLC	8/24/2020	941	\$10,000	\$3,200	\$0	Number of Employees, Wages Paid, Sick Leave Wages

In violation of Title 18, United States Code, Section 371.

**COUNTS 2 - 14
18 U.S.C. § 1343
(Wire Fraud)**

35. The factual allegations set forth in paragraphs 1 – 34 of this Indictment are realleged and incorporated as if fully set forth herein.

36. Beginning on or about April 2020, and continuing through August 2021, within the District of Utah and elsewhere,

**ZACHARY BASSETT,
MASON WARR, and
COS ACCOUNTING & TAX LLC, dba 1099 Tax Pros**

defendants herein, aided and abetted by each other and other individuals not named herein whose identities are known and unknown to the Grand Jury, knowingly devised and

executed a scheme and artifice to defraud, to obtain money and property by means of false and fraudulent pretenses, representations, promises, and omissions of material facts

37. In executing and attempting to execute the scheme and artifice to defraud, and in furtherance thereof, defendants, aided and abetted by each other and individuals not named herein whose identities are known and unknown to the Grand Jury, prepared and presented to the IRS materially false or fraudulent Forms 7200 and 941 to claim COVID-related benefits on behalf of clients of COS ACCOUNTING.

38. It was the object of the scheme and artifice to defraud for clients of COS ACCOUNTING to obtain money, tax credits, or other tax benefits from the United States through the false and fraudulent pretenses, misrepresentations and omissions of material fact contained in the Forms 7200 and 941.

39. It was part of the scheme and artifice to defraud that COS ACCOUNTING charged a fee for the preparation and presentation to the IRS of the Forms 7200 and 941 by the participants in the scheme, with such fee being greater if greater COVID-related tax credits were claimed.

40. On or about the dates listed below, in the District of Utah, for the purpose of executing said scheme and artifice to defraud, BASSETT, WARR, COS ACCOUNTING, and other individuals not named herein whose identities are known and unknown to the Grand Jury, did cause to be transmitted by means of wire communication certain writings, signs and signals, that is, interstate wires in the form of electronic facsimiles of the Forms 7200 to the IRS that crossed state lines, each such use of wire communication being a separate count of this Indictment:

COUNT	TAXPAYER	APPROX. DATE OF FILING	FORM	ERC CLAIMED	SICK LEAVE CLAIMED	FAMILY LEAVE CLAIMED	FALSE ITEM(S)
2	T.J.E. LLC	4/24/2020	7200	\$10,000	\$0	\$0	Number of Employees, Wages Paid, Signature
3	T.J.E. LLC	6/29/2020	7200	\$10,000	\$3,620	\$7,102	Number of Employees, Wages Paid, Sick Leave Wages, Family Leave Wages, Signature
4	D.L. LLC	9/21/2020	7200	\$10,000	\$0	\$0	Number of Employees, Wages Paid
5	A.L.E. LLC	4/24/2020	7200	\$10,000	\$0	\$0	Number of Employees, Wages Paid
6	A.L.E. LLC	6/29/2020	7200	\$10,000	\$3,620	\$7,102	Number of Employees, Wages Paid, Sick Leave Wages, Family Leave Wages, Signature
7	M.U.U. LLC	4/20/2020	7200	\$10,000	\$0	\$0	Number of Employees, Wages Paid, Signature
8	M.U.U. LLC	6/29/2020	7200	\$10,000	\$3,620	\$6,087	Number of Employees, Wages Paid, Sick Leave Wages, Family Leave Wages, Signature
9	B.R.E.G. LLC	4/28/2020	7200	\$10,000	\$0	\$0	Number of Employees, Wages Paid, Signature
10	B.R.E.G. LLC	6/29/2020	7200	\$10,000	\$3,620	\$7,102	Number of Employees, Wages Paid, Sick Leave Wages, Family Leave Wages, Signature
11	C.G. LLC	4/13/2020	7200	\$10,000	\$0	\$0	Number of Employees, Wages Paid, Signature
12	C.G. LLC	5/4/2020	7200	\$10,000	\$3,620	\$0	Number of Employees, Wages Paid, Sick Leave Wages, Signature
13	C.M.P.	4/24/2020	7200	\$10,000	\$0	\$0	Number of

	LLC						Employees, Wages Paid
14	C.M.P. LLC	5/4/2020	7200	\$10,000	\$3,246	\$0	Number of Employees, Wages Paid, Sick Leave Wages

In violation of Title 18, United States Code, Section 1343 and Title 18, United States Code, Section 2.

COUNTS 15 - 25
26 U.S.C. § 7206(2)
(Aiding and Assisting in Filing False Tax Returns)

41. The factual allegations set forth in paragraphs 1-40 of this Indictment are realleged and incorporated as if fully set forth herein.

42. On or about the dates listed below, within the District of Utah and elsewhere,

ZACHARY BASSETT,
MASON WARR, and
COS ACCOUNTING & TAX LLC, dba 1099 Tax Pros

defendants herein, and other individuals not named herein but whose identities are known and unknown to the Grand Jury, did willfully aid and assist in, procure, counsel, and advise in the preparation and presentation to the Internal Revenue Service of Forms 941 claiming certain COVID-related tax credits for the following taxpayers, which were false and fraudulent as to material matters as described below:

COUNT	TAXPAYER	APPROX. DATE OF FILING	FORM	ERC CLAIMED	SICK LEAVE CLAIMED	FAMILY LEAVE CLAIMED	FALSE ITEM(S)
15	T.J.E. LLC	7/21/2020	941	\$10,000	\$3,568	\$6,000	Number of Employees, Wages Paid, Sick Leave Wages, Family Leave Wages
16	J. LLC	8/18/2020	941	\$10,000	\$3,200	\$0	Number of

							Employees, Wages Paid, Sick Leave Wages
17	A.L.E. LLC	8/24/2020	941	\$10,000	\$3,568	\$6,000	Number of Employees, Wages Paid, Sick Leave Wages, Family Leave Wages
18	A.L.E. LLC	10/28/2020	941	\$0	\$0	\$4,000	Number of Employees, Family Leave Wages
19	M.U.U. LLC	8/14/2020	941	\$10,000	\$3,568	\$6,000	Number of Employees, Wages Paid, Sick Leave Wages, Family Leave Wages
20	B.R.E.G. LLC	8/24/2020	941	\$10,000	\$3,200	\$0	Number of Employees, Wages Paid, Sick Leave Wages
21	S. LLC	5/7/2021	941	\$10,000	\$3,200	\$2,800	Number of Employees, Wages Paid, Sick Leave Wages, Family Leave Wages
22	J. LLC	2/1/2021	941	\$5,000	\$0	\$0	Wages Paid
23	C.G. LLC	8/26/2020	941	\$10,000	\$3,200	\$0	Number of Employees, Wages Paid, Sick Leave Wages
24	C.G. LLC	10/28/2020	941	\$0	\$0	\$8,000	Number of Employees, Wages Paid, Family Leave Wages
25	C.M.P. LLC	8/24/2020	941	\$10,000	\$3,200	\$0	Number of Employees, Wages Paid, Sick Leave Wages

In violation of Title 26, United States Code, Section 7206(2) and Title 18, United States Code, Section 2.

NOTICE OF INTENT TO SEEK FORFEITURE

Pursuant to 18 U.S.C. §§ 981(a)(1)(C) and 982(a)(1) and 28 U.S.C. § 2461(c), upon conviction of any offense violating 18 U.S.C. §§ 371 and/or 1343, the defendants shall forfeit to the United States of America any property, real or personal, that constitutes or is derived from proceeds traceable to the scheme to defraud. The property to be forfeited includes, but is not limited to:

- A money judgment equal to the value of any property not available for forfeiture as a result of any act or omission of the defendants for one or more of the reasons listed in 21 U.S.C. § 853(p).
- Substitute property as allowed by 28 U.S.C. § 2461(c) and 21 U.S.C. § 853(p).

A TRUE BILL:



FOREPERSON OF GRAND JURY

TRINA A. HIGGINS
United States Attorney



JENNIFER K. MUYSKENS
Assistant United States Attorney